THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION NO.16674 OF 2003

DATED: 2nd November, 2006.

Between:

C. Gopi … Petitioner

And

APSRTC, Nellore Region, Nellore,
Rep. by its Regional Manager, Nellore
And others. .. Respondents

THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION NO.16674 OF 2003

ORDER :

This writ petition is filed seeking a declaration that the action of the respondents 1 and 2 in allotting a stall for sale of dairy products situated in APSRTC, Gudur Depot, shown as Item No.17 in the tender notice dated 9-6-2003 to the 4th respondent as arbitrary and illegal.

The 1st respondent issued a tender notice dated 9-6-2003 inviting sealed tenders for allotment of vacant places in the Bus-stations specified thereunder for establishing stalls for sale of different products. The petitioner herein submitted his tender in respect of Item No.17 i.e., the stall for sale of dairy products situated in the Bus Depot at Gudur. It is stated that the petitioner had quoted a sum of Rs.9,005/- per month, whereas the 4th respondent had quoted only Rs.6,600/-. In spite of the same, the 1st respondent had accepted the tender submitted by the 4th respondent and the stall was allotted to the 4th respondent by order dated 22-7-2003. Aggrieved by the same, this writ petition is filed contending inter alia that the action of the respondents 1 and 2 in not considering the tender made by the petitioner, which is the highest, as arbitrary and illegal.

On behalf of the respondents, a counter-affidavit has been filed stating that the petitioner had submitted a tender quoting Rs.9,005/- towards licence fee and he also paid the necessary earnest money deposit. While finalizing the tender, the tender committee had observed that the petitioner who was earlier granted a licence for sale of Soda and Mineral Water, has been selling poor quality of butter milk

(local-made) which is an unauthorized item for his business. The penalties imposed in this regard on the petitioner did not yield any result. It is also found that the petitioner used to sell sweets in the book-stall for which licence was awarded to one K. Srinivasulu and he was also discouraging others to come forward to run the business of dairy products. In the circumstances, though he quoted the highest bid of Rs.9,005/- per month the tender Committee had negotiated with the next highest tenderer i.e., the 4th respondent. The 4th respondent accepted to enhance licence fee to Rs.9,025/- per month. Accordingly, the 4th respondent was issued licence to run diary products.

I have heard the learned Counsel for both the parties and perused the material on record.

The law is also well settled that no person has a fundamental right to insist that the Government should enter into a contract with him and the lowest/highest bidder cannot claim any vested right to the award of contract though he is entitled to claim that his bid should be considered fairly and properly satisfying the equality clause under Article 14 of the Constitution of India. It is also well settled that the performance record of the tenderer while executing previous contracts is relevant in deciding whether to award the contract in his favour or not. Such consideration cannot be said to be either arbitrary or unreasonable.

In the case on hand, admittedly, the petitioner was an existing licensee with the Corporation for sale of Soda and Cool Drinks and his performance as a licensee was not satisfactory and the Tender committee having noted the same decided not to award the contract in his favour in spite of the fact that he has quoted the highest bid. As can be seen, there was sufficient material before the Tender Committee for arriving at a conclusion that it is not desirable to award the contract in favour of the writ petitioner. The said decision of the Tender Committee cannot be held to be on the basis of irrelevant factors. There is no allegation of mala fides against any of the respondents nor the

impugned action is in violation of any statutory provisions. Since the next highest bidder on negotiations accepted to enhance the licence fee to Rs.9,025/- per month, it cannot be held that there is any loss to the public exchequer.

In the circumstances, I am unable to hold that the rejection of the petitioner's bid by the Corporation is either arbitrary or illegal.

The Writ Petition is devoid of any merit and the same is accordingly dismissed. No costs.

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G. ROHINI, J.

Dt. 2-11-2006

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